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Ginny Rowen  
Department of Planning  
COUNTY OF LOUDOUN  
1 Harrison Street, 3<sup>rd</sup> Floor  
P. O. Box 7000  
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**Re: Parc Dulles II – ZMAP 2002-0017**

Dear Ginny:

We received comments this week from the Zoning Division of the Department of Building and Development, dated December 29, 2010, pertaining to the Proffer Statement for the proposed Parc Dulles II rezoning (ZMAP 2002-0017). We were able to address most of the comments in the manner requested by staff, with the exception of a few. This letter addresses only those comments that were not amended as recommended by staff.

In addition we received comments this week from the Environmental Review Team. These comments are also addressed in this letter. Given our time constraints with a planning commission worksession scheduled for January 12, 2011, some of the issues raised by the Environmental Review Team will need additional discussion before they can be reduced to writing.

I am enclosing with this letter 20 copies of a redlined Proffer Statement, comparing the Proffer Statement dated October 20, 2010 to the Proffer Statement dated January 7, 2011. Please let me know if you have any questions.

**Proffer Review, Zoning Division**

**Comment 4:** In further regard to proffer I.A.1.b., in the seventh line of the proffer, I note that the applicant proposes the use of building materials that “would be similar in quality” to a list of materials. Again, this is a subjective standard. I suggest that the applicant provide their list of materials, and indicate that they shall limit the materials they intend to those identified on that list.

**Response:** The referenced language was amended to state that the Owner would use the materials listed, or similar materials. The Owner would like to retain the flexibility to select “similar” materials.

**Comment 10:** ... Therefore, I suggest it would be appropriate to specify that the total square footage for non-office uses will, at all times, exceed that of office uses.

**Response:** The applicant continues to seek a commercially viable mix of retail/non-office and office uses. In order to address staff comments that office should not be the predominant use in the PD-CC(CC) zoning district, the applicant reduced the amount of office space available to this Property in its 4<sup>th</sup> submission. Currently, 40% of the non-residential floor area is reserved for office.

**Comment 17:** I do not know what income limits are included in federal and state affordable housing programs, but it appears that in order to meet the intent of this proffer, any such program must serve the same income group as referenced in this proffer, and I suggest that it be clarified that any qualifying program must also serve this same income group.

**Response:** The referenced federal and state affordable housing programs target low and moderate income families. The applicant would prefer not to qualify its proffer in the manner suggested, since the income limits of these programs are subject to change. It should be sufficient that these are programs to provide affordable housing, serving families with low to moderate incomes and, as such, is in keeping with the intent to meet the County's Unmet Housing Needs.

**Comment 22:** In further regard to proffer IV.A., in the second line of the third paragraph thereof, I suggest that the phrase "east of the drainage channel" be inserted following the phrase "zoned property".

**Response:** Based upon staff's Comment 20, the Applicant has deleted descriptions of drainage areas in reference to the BMP Facilities. As a result, Comment 22 should no longer be relevant.

**Comment 24:** In regard to proffer V., concerning the Archaeology Area, I do not understand why the applicant has included provisions concerning the potential disturbance of the Area when this area is shown to be in a Tree Conservation Area. As such, it should not be disturbed. I suggest that the applicant commit to not disturbing this Area.

**Response:** The Archaeological Area should not be disturbed. It is protected under the Tree Conservation Area proffer from any disturbance to healthy trees, as well as any disturbance from utility or stormwater management encroachments. The Archaeological proffer language was reached with historic preservation staff, and provides assurance that if some unforeseen disturbance were to occur, that the applicant would have to study and record any archaeological resources.

**Comment 26:** In further regard to proffer VI.A., I note that the applicant has indicated that all roads proffered herein for "access to and within" the Property are to be private roads. However, roads that access the site are actually supposed to be public roads. I suggest that this inconsistency be eliminated.

**Response:** All of the roads proffered under Parc Dulles II that access the site, or portions thereof, are private roads, with the exception of Haleybird Drive Extended. The road network surrounding the Property is public and is already built, and so is not part of the proffered road network under the Parc Dulles II application.

**Comment 29:** In further regard to proffer VI.B., I note that the applicant has proffered to construct the extension of Haleybird Drive, for which they would like a credit against their capital facilities contribution, proffered elsewhere. However, I also note that the applicant is not taking any



responsibility for the acquisition of the right-of-way for the extension of Haleybird Drive. I suggest that in order to get a credit the construction should actually be assured of occurring. Without the guarantee of the right-of-way being there, I do not see how this extension is assured of occurring. I suggest that the applicant commit to obtaining the necessary right of way at fair market value, and if it is unable to acquire such right-of-way, then the applicant should commit to requesting the County to obtain it through the use of eminent domain, with the applicant paying for the costs of such acquisition. Any such costs could also be the subject of a credit against the capital facilities contribution, but the construction would be better assured of occurring.

**Response:** The applicant is willing to consider this. It is unclear to the applicant how the costs of eminent domain would be calculated and thereby translated into a capital facilities credit.

**Comments 36 and 37:** In regard to proffer VII.C., concerning the escalation clause, in the second line thereof, I suggest that the phrase “the lesser of: (i) 2.5%, or (ii)” be deleted.

In further regard to proffer VII.C., concerning the escalation clause, in the third through sixth lines thereof, I suggest that the phrase “however, no per unit cash contribution paid to the County, as escalated by this provision, will exceed the expected per unit capital facility contribution for multi-family units in effect at the time the cash contribution is paid” be deleted.

**Response:** The Applicant derived the 2.5% escalation clause by reviewing the average CPI escalation over the past 15 years. As such, it should be a realistic escalation number, and serves to provide the applicant with some certainty as to what its future costs will be. For these reasons, the applicant prefers to leave the proffer as it was written.

**Comment 42:** I suggest that the applicant clarify their intent in regard to what use or uses they intend to provide on this “Community Facility” site.

**Response:** The Community Facility site was removed on the plat dated October 20, 2010. This issue should be moot. It looks like staff might have had an outdated copy of the Rezoning Plat.

#### **Environmental Review Team Comments:**

1. Proffer V – ERT defers to Heidi Siebentritt on appropriate fencing of the archaeological area.

Response: Acknowledged.

2. Proffer VI.C – defer to OTS.

Response: Acknowledged.

3. Proffer IX.C – last sentence of first full paragraph: applicant needs to commit to preserving naturalized areas per the plantings specified on Sheet 7 of the CDP. Proposed wording could allow re-channelization, armoring of planted areas that defeats purpose of proffer.

Response: The Applicant has reworded this proffer as we think staff intended.

4. Last sentence of second paragraph: Staff strongly recommends a tree survey as metric for verifying 80-percent compliance. It's the most verifiable, transparent compliance option.

Response: The Tree Conservation Areas have a dense tree canopy. As such, the applicant maintains that calculating the 80% by land area is an effective and economical method.

5. Proffer IX.E – it lacks methodology to ensure noise study accounts for future noise levels. Typical methodology commitments include being based upon the ultimate road configuration as defined in the Revised Countywide Transportation Plan and the ultimate design speed. Traffic volumes for these roadways will be consistent with either the 2030 forecast from the Loudoun County Transportation Forecasting Model or volumes projected at a time 10-20 years from the start of construction as confirmed by the Office of Transportation Services, based on the latest horizon year. Noise commitment should also address noise impacts for public open spaces.

Response: The applicant is willing to consider language that would achieve the first recommendation herein. The applicant will discuss this further with staff.

6. Proffer IX.F – tie stream mitigation to first site plan or construction plan regardless of zoning district.

Response: Done.

7. Proffer IX.H.2 and 3 – Proffer language has questionable water and energy conservation value, since Water Sense and Energy Star appliances are only as efficient as the users of the appliances. Conversely, buildings that are designed per Energy Star “Target Finder” and have performance data submitted to EPA per “Energy Star Portfolio Manager” would provide a tangible, cost-effective commitment. ERT encourages applicant to consider an overall, building performance commitment to Target Finder and Portfolio Manager with follow up tracking by Property Owners Associations, applicable to residential and commercial uses. Because proffer as written will be difficult for permit inspectors to verify and require extra legwork for applicant, staff suggests removing proffer language as currently worded.

Response: This issue warrants further discussion between the applicant and staff.

We look forward to seeing you at the Planning Commission worksession on January 12, 2011.

Sincerely,



Sally Hankins